WP(C) 1094/2007
BEFORE

THE HON'BLE MR. JUSTICE B.K.SHARMA

Heard Mr. C. Baruah, learned Sr. counsel for the petitioner. Also heard Mr. B.K. Goswami, learned Sr. counsel and Standing Counsel, Assam Financial Corporation.

By means of this writ petition, the petitioner, a commercial concern, has assailed the legality and validity of the Annexure-'G' notice dated 2.3.2007 issued by the Assam Financial Corporation under the signature of the Manager (Legal) intimating the decision to take over possession of the mortgaged/hypothecated assets of the petitioner's concern at Lachitnagar, Guwahati. The notice has been issued on failure of the petitioner to repay the loan which he took wayback in 1990.

The petitioner was issued with notice dated 7.12.2006 intimating the fact of taking loan of Rs.31,96,000.00 and the agreed repayment amount is Rs.1,89,82,883.51 as on 30.9.2006. According to the petitioner, he had faced various difficulties and he could not start business concern immediately. It is the further case of the petitioner that the interest charge of the Corporation is on the higher side and that he is entitled to certain concession.

Mr. C. Baruah, learned Sr. counsel for the petitioner submits that the representation submitted by the petitioner on 14.2.2007 (Annexure-'F' to the writ petition) before the Managing Director, Assam Financial Corporation has not been disposed of. He submits that the grounds as have been urged in the writ petition have been indicated in the representation.

Mr. B.K. Goswami, learned Sr. counsel for the A.F.C. submits that the writ Court cannot sit on appeal over loan agreement and that the petitioner will have to make the demanded payment as per terms of the loan agreement. He submits that since the petitioner failed to repay the said loan amount, the Corporation was left with no other alternative than to issue notice dated 2.3.2007.

Having regard to the limited scope and jurisdiction of this Court in such matter, I dispose of the writ petition providing that the Managing Director, Assam Financial Corporation may take on record the Annexure-'F' representation dated 14.2.2007 and decide the same in accordance with law.

At this stage, Mr. Baruah, learned Sr. counsel for the petitioner submits that till disposal of the representation, the proposed action as reflected in the Annexure-'G' notice dated 2.3.2007 may not be implemented to which Mr. Goswami, learned counsel for the A. F. C. has raised objection. I direct that the Managing Director, Assam Financial Corporation shall dispose of the representation at the earliest opportunities and it is expected that till the representation is disposed of, the Corporation may not insist upon the notice dated 2.3.2007.

With the above observation and direction, the writ petition is disposed of.